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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/720,523	05/02/2001	Rudolf Ritter	PM275480	1568
22850 7590 02/23/2007 OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314			EXAMINER FADOK, MARK A	
			ART UNIT	PAPER NUMBER
			3625	
SHORTENED STATUTORY PERIOD OF RESPONSE		NOTIFICATION DATE	DELIVERY MODE	
3 MONTHS		02/23/2007	ELECTRONIC	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Notice of this Office communication was sent electronically on the above-indicated "Notification Date" and has a shortened statutory period for reply of 3 MONTHS from 02/23/2007.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentdocket@oblon.com  
oblonpat@oblon.com  
jgardner@oblon.com

## Office Action Summary

Application No.

09/720,523

Applicant(s)

RITTER, RUDOLF

Examiner

Mark Fadok

Art Unit

3625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 13 November 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 21-38 is/are pending in the application.
- 4a) Of the above claim(s) 21,22,26-31,34 and 36-38 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 23,24,25,32,33,35 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Response to Amendment***

The examiner is in receipt of applicant's response to office action mailed 7/11/2006, which was received 11/13/2006. Acknowledgment is made to the amendment to claims 32. In regards to applicant's arguments on the merits, the arguments have been carefully considered, but were not found to be persuasive, therefore the previous office action is restated below modified as necessitated by amendment:

### **Examiner's Note**

Examiner has cited particular columns and line numbers or figures in the references as applied to the claims below for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant, in preparing the responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 23,25,32,33,34 and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ali-Vehmas et al (US 6,035,189) in view of Morrill, Jr (US 5,991,749) and Further in view of Sehr (6,999,936).**

**In regards to claim 32,** Ali-Vehmas discloses a method for selling products over a mobile radio network, the mobile radio network including a plurality of participants and being coupled to a sales module (col 7, lines 1-50), comprising:

broadcasting offer information via the mobile radio network in accordance with a text messaging protocol to the plurality of participants in the mobile radio network, the offer information including an identification of the products and an identification of a vendor of the products (col 7, lines 15-30);

storing quantity information in the sales module, the quantity information indicating an available number of the products provided by the vendor (col 5, lines 65-67 );

receiving an order data in the sales module from a participant of the plurality of participants via the mobile radio network in response to the broadcasting, the order data including a request for a product of the products and an identification of the participant (col 5, lines 65-67);

confirming by the sales module that the available number of the products is greater than zero (col 7, lines 25 and 26);

Ali-Vehmas teaches the use of an intelligent cell phone to communicate reservation of products such as event tickets and a means for payment of such services or products, but does not specifically mention that a token exchangeable for the product is forwarded to both the vendor and the participant. Morrill teaches an order and payment process that sends a confirmation including an authorization code that consummates the sale purchase of goods or services (FIG 1A-1E). It would have been obvious to a person having ordinary skill in the art at the time of the invention to include in Ali-Vehmas a token exchangeable for the product is forwarded to both the vendor and the participant, because this will assure that the transaction has been properly authorized and completion of the transaction is confirmed (Morrill, col 1, lines 55-60).

The combination of Ali-Vehmas and Morrill, Jr. teach arriving at a sold out condition and delivering a electronic voucher to a cell phone, but does not specifically mention adjusting the quantity information in the sales module based on the token. Sehr teaches reducing the availability of seating based on the distribution of an electronic ticket (col 8, lines 30-60). It would have been obvious to a person having ordinary skill in the art at the time of the invention to include in the combination of Ali-Vehmas and Morrill, Jr. reducing the availability of seating based on the distribution of an electronic ticket as taught by Sehr, because this would keep track of the sales and assure that a seat that is reserved is not given to another, thus minimizing frustration of the consumer arriving at a venue to find someone else in the seat.

**In regards to claim 23**, the combination of Ali-Vehmas and Morrill teach wherein the order data includes a requested quantity of the products (col 5, lines 65-67).

**In regards to claim 25**, the combination of Ali-Vehmas and Morrill teach wherein the token includes a delivery number (Morrill, FIG 1E).

**In regards to claim 33 and 34**, the combination of Ali-Vehmas and Morrill teach wherein the product includes at least one of goods and services (col 5, lines 64-67).

**In regards to claim 35**, the combination of Ali-Vehmas and Morrill teach wherein, the text messaging protocol is a SMS protocol, the broadcasting includes transmitting the offer information in multiple SMS short messages to the plurality of participants, and the transmitting of the token to the participant includes transmitting the token in a SMS short message to a mobile communications device of the participant (col 7, lines 5-35).

### ***Response to Arguments***

Applicant's arguments filed 4/17/2006 have been fully considered but they are not persuasive.

Applicant appears to argue that Ali-Vehmas does not teach broadcasting to a plurality of recipients, the same message, simultaneously. The examiner notes that the same message is transferred to each customer when they select a request for the same information, say movie tickets at a particular venue. Since each customer receives the

same broadcast, albeit the broadcast may be at different times, the teachings of Ali-Vehmas non the less teach this particular limitation as currently presented in claim 1.

Applicant argues that Ali-Vehmas does not teach a token being generated for a specific product and did not traverse the examiners definition that was presented in the previous office action. Therefore this previous definition is restated below:

***Definition***

Token - The specification describes a token in the following context “a token is generated which represents an unambiguous certificate, and which also contains, for example, information for identifying the ordered product and/or the respective vendor 1”. By this excerpt of the specification the examiner understands the token to be any one of a certificate, voucher or confirmation that reserves a product for pick up at a later date.

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). The combination of Ali-Vehmas and Morrill, Jr. includes a voucher that is provided to a customer (Morrill, Jr.) and the product that would be placed on the voucher would be a ticket (Ali-Vehmas). Therefore the combination teaches a selected product on a voucher that can be redeemed at a later date.

Applicant argues that the combination of Ali-Vehmas/Morrill does not teach reducing the number of products available after the confirmation is sent to the vendor and purchaser. The examiner disagrees noting that this feature is inherent in the response "sold out" in that the only way this information could be presented is if a running tally of the availability is maintained, but in the interest of compact prosecution the examiner has introduced Sehr to teach the tallying of sold seats with each issuance of an electronic ticket.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Mark Fadok** whose telephone number is **571.272.6755**. The examiner can normally be reached Monday thru Friday 8:00 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Jeff Smith** can be reached on **571.272.6763**.

Any response to this action should be mailed to:

***Commissioner for Patents***

***P.O. Box 1450***

***Alexandria, Va. 22313-1450***

or faxed to:

**571-273-8300**

[Official communications; including

After Final communications labeled



"Box AF"]

For general questions the receptionist can be reached at  
571.272.3600

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A handwritten signature in black ink, appearing to read 'M. G. Fadok', with a long horizontal flourish extending to the right.

Mark Fadok  
Primary Examiner